

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**BERNARD ENDA**  
**c/o Minnillo & Jenkins, Co. LPA**  
**2712 Observatory Avenue**  
**Cincinnati, Ohio 45208**

**Plaintiff**

**VS.**

**CHEEK LAW OFFICES, LLC**  
**471 E. Broad Street, 12<sup>TH</sup> Floor**  
**Columbus, Ohio 43215**

**And**

**MATTHEW J.P. COFFMAN**  
c/o Cheek Law Offices  
471 E. Broad Street, 12<sup>th</sup> Floor  
Columbus, Ohio 43215

### Defendants.

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**CASE NO: 1:12-cv-911**

**JUDGE:**

## COMPLAINT WITH JURY DEMAND

Now comes the Plaintiff, Bernard Enda, for his complaint against the Defendants and states as follows:

## JURISDICTION

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d), and pursuant to 28 U.S.C. § 1367 for supplemental state law claims.
2. This action arises out of Defendants’ violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (“FDCPA”).
3. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here, and Defendants transact business here.

**PARTIES**

4. Plaintiff Bernard Enda is a natural person who resides in Loveland, County of Warren, State of Ohio, and is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).
5. Defendant Cheek Law Offices (hereinafter “Cheek”) is a law firm operating from an address of 471 E. Broad Street, Columbus, Ohio.
6. Upon information and belief, Defendant Matthew J.P. Coffman (hereinafter “Coffman”) is an attorney employed by or is a principal of Cheek Law Offices, LLC.
7. The acts and omissions of Defendant Coffman were committed within the course and scope of his agency relationship with Defendant Cheek.
8. The acts and omissions by Defendant Coffman were incidental to, or of the same general nature as, the responsibilities he was authorized to perform by Defendant Cheek in collecting consumer debts.
9. By committing these acts and omissions against Plaintiff, Defendant Coffman was motivated to benefit his principal, Defendant Cheek.
10. Defendant Cheek is therefore liable to Plaintiff through the doctrine of respondeat superior for the intentional and negligent acts, errors, and omissions done in violation of state and federal law by its employees, including but not limited to, violations of the FDCPA and the Ohio Consumer Sales Practices Act, in their attempts to collect this debt from Plaintiff.
11. Defendants regularly collect or attempt to collect, directly or indirectly, debts owed or due or asserted to be owed or due another; therefore, they are “debt collectors” as defined by 15 U.S.C. § 1692a(6).

**FACTUAL ALLEGATIONS**

12. On November 28, 2011 Defendants filed a lawsuit against Plaintiff in the Clermont County Municipal Court. A copy of Defendants' complaint is attached as Exhibit A. Defendants' lawsuit was served on or about January 6, 2012.
13. At the time the lawsuit was filed and for approximately five years prior thereto, the Plaintiff resided at his home, which is situated in Warren County, as evidenced by the address on the complaint filed by Defendants.
14. There is no underlying consumer contract which forms the basis of the lawsuit.
15. Defendants proceeded with the prosecution of the case by obtaining a default judgment against Mr. Enda in a distant forum.
16. In connection with the motion for default judgment, defendants filed an Affidavit that stated in relevant part, "the contract forming the basis of the Complaint filed herein was either executed in Clermont County or Defendant resided in Clermont County at the time the Complaint was filed\*\*\*." See Exhibit B.
17. Defendants' attempts to collect the debt were false, misleading, deceptive, abusive and harassing all in violation of the federal Fair Debt Collection Practices Act.

**CAUSES OF ACTION**

**COUNT I.**

**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**

**15 U.S.C. § 1692 et seq.**

18. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
19. The foregoing acts and omissions of each and every Defendant and their agents constitute numerous and multiple violations of the FDCPA including, but not limited to 15 U.S.C. § 1692i(a) with respect to the Plaintiff.
20. As a result of each and every one of Defendants' violations of the FDCPA, Plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3), from each and every Defendant herein.

**COUNT II.**  
**OHIO CONSUMER SALES PRACTICES ACT**

21. Plaintiff incorporates by reference all of the paragraphs of this Complaint as though fully stated herein.
22. Plaintiff is a consumer within the meaning of the Ohio Consumer Sales Practices Act. O.R.C. § 1345.01 et seq.
23. Defendant is a supplier covered by the Ohio Consumer Sales Practices Act. O.R.C. 1345.01 et seq.
24. The foregoing acts and omissions of each and every Defendant and their agents constitute numerous and multiple violations of the Ohio Consumer Sales Practices Act including, but not limited to O.R.C. §§ 1345.02 and 1345.03 with respect to the Plaintiff.

WHEREFORE, Plaintiff demands judgment against the Defendants as follows:

- 1) for an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against each and every Defendant;
- 2) for an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against each and every Defendant;
- 3) for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against each and every Defendant;
- 4) for an award of all relief available under O.R.C. 1345.09, including without limitation actual damages, treble damages, noneconomic damages, reasonable attorney fees and costs;
- 5) Such other relief as the Court deems just and equitable.

Respectfully submitted,

MINNILLO & JENKINS, Co. LPA

/s/ Niroshan M. Wijesooriya

NIROSHAN M. WIJESOORIYA (0079780)

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Trial Counsel for Plaintiff

**JURY DEMAND**

Plaintiff demands a trial by jury as to all issues so triable in this matter.

/s/ Niroshan M. Wijesooriya

NIROSHAN M. WIJESOORIYA (0079780)